

## § 123.34

CFR part 123, subpart D in processing a Tribe's request to assume the NPDES program.

[58 FR 67982, Dec. 22, 1993, as amended at 59 FR 64343, Dec. 14, 1994]

### **§ 123.34 Provisions for Tribal criminal enforcement authority.**

To the extent that an Indian Tribe is precluded from asserting criminal enforcement authority as required under § 123.27, the Federal Government will exercise primary criminal enforcement responsibility. The Tribe, with the EPA Region, shall develop a procedure by which the Tribal agency will refer potential criminal violations to the Regional Administrator, as agreed to by the parties, in an appropriate and timely manner. This procedure shall encompass all circumstances in which the Tribe is incapable of exercising the enforcement requirements of § 123.27. This agreement shall be incorporated into a joint or separate Memorandum of Agreement with the EPA Region, as appropriate.

[58 FR 67983, Dec. 22, 1993]

## **Subpart C—Transfer of Information and Permit Review**

### **§ 123.41 Sharing of information.**

(a) Any information obtained or used in the administration of a State program shall be available to EPA upon request without restriction. If the information has been submitted to the State under a claim of confidentiality, the State must submit that claim to EPA when providing information under this section. Any information obtained from a State and subject to a claim of confidentiality will be treated in accordance with the regulations in 40 CFR part 2. If EPA obtains from a State information that is not claimed to be confidential, EPA may make that information available to the public without further notice.

(b) EPA shall furnish to States with approved programs the information in its files not submitted under a claim of confidentiality which the State needs to implement its approved program. EPA shall furnish to States with approved programs information submitted to EPA under a claim of confiden-

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tiality, which the State needs to implement its approved program, subject to the conditions in 40 CFR part 2.

### **§ 123.42 Receipt and use of Federal information.**

Upon approving a State permit program, EPA shall send to the State agency administering the permit program any relevant information which was collected by EPA. The Memorandum of Agreement under § 123.24 shall provide for the following, in such manner as the State Director and the Regional Administrator shall agree:

(a) Prompt transmission to the State Director from the Regional Administrator of copies of any pending permit applications or any other relevant information collected before the approval of the State permit program and not already in the possession of the State Director. When existing permits are transferred to the State Director (e.g., for purposes of compliance monitoring, enforcement or reissuance), relevant information includes support files for permit issuance, compliance reports and records of enforcement actions.

(b) Procedures to ensure that the State Director will not issue a permit on the basis of any application received from the Regional Administrator which the Regional Administrator identifies as incomplete or otherwise deficient until the State Director receives information sufficient to correct the deficiency.

### **§ 123.43 Transmission of information to EPA.**

(a) Each State agency administering a permit program shall transmit to the Regional Administrator copies of permit program forms and any other relevant information to the extent and in the manner agreed to by the State Director and Regional Administrator in the Memorandum of Agreement and not inconsistent with this part. Proposed permits shall be prepared by State agencies unless agreement to the contrary has been reached under § 123.44(j). The Memorandum of Agreement shall provide for the following:

(1) Prompt transmission to the Regional Administrator of a copy of all complete permit applications received by the State Director, except those for